

such change shall be promptly brought into compliance by Tenant upon notification thereof by Landlord in writing. Without cost or expense to Landlord, Landlord shall reasonably cooperate with Tenant in the obtaining of any and all licenses, building permits, certificates of occupancy or other governmental approvals which may be required in connection with any such modifications or alterations, and Landlord shall execute, acknowledge and deliver any documents reasonably required in furtherance of such purposes. Landlord's approval of Tenant's plans and specifications shall be subject to Landlord's sole reasonable good faith discretion.

(e) No Liability for Approval of Plans. The approval by Landlord of any plans and specifications refers only to the conformity of such plans and specifications to the general architectural plan for the Premises. Such plans and specifications are not approved for architectural or engineering design, and Landlord, by approving such plans and specifications, assumes no liability or responsibility therefor or for any defect in any structure constructed from such plans or specifications.

9. Signs and Communications Equipment.

(a) Tenant shall construct and install at the location so shown on Exhibit "A" two (2) monument sign structures (with electrical wired box installed) for purposes of identifying Tenant's store, which signs shall be constructed and installed at Tenant's sole cost and expense. Tenant shall submit to Landlord plans and specifications for such signs (including colors, design, dimensions, type of lighting and tenant's identification) prior to construction and installation thereof for Landlord's written approval, which shall not be unreasonably withheld or delayed. Attached as Exhibit "D" are plans and specifications for Tenant's current prototypical face panels and for Tenant's building signage, which Landlord hereby approves. Tenant shall be entitled, without Landlord's consent but subject to governmental requirements and the Permitted Encumbrances, to replace any and all of its signs with signage consistent with Tenants's then-current prototypical sign plans, so long as such new signs are of the same size as that previously approved by Landlord. In the event of an assignment or subletting as a result of which Tenant is no longer occupying any portion of the Premises, Tenant's signs may be replaced by signs identifying the appropriate assignee or subtenant, provided that the specific design of such signage shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

(b) Communications Equipment. Tenant may from time to time, install, maintain and/or replace any satellite dishes or antennas on the roof and/or exterior walls or parapet of the Building, provided same shall not adversely and materially affect the roof or the structural elements thereof and so long as said satellite dishes and antennae are screened from view in accordance with plans approved by Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Upon removal by Tenant of any satellite dishes or antennas, Tenant shall repair any damage done in connection with such removal.

10. Impositions.

(a) The term "Impositions" as used herein, shall mean all ad valorem taxes, assessments, levies, licenses, sales and permit fees, and other charges by a public authority general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and assessments made pursuant to the terms of the Declaration and/or the Declaration of Covenants and Restrictions of the Woodlands Commercial Owners Association and any other instrument described in the Permitted Encumbrances, which shall or may during the Main Term or any Option Periods of this Lease be assessed, levied, charged, confirmed, or imposed upon, or accrue or become due or payable out of or on account of, the Premises, or become a lien on the Premises or any part thereof, but not any such assessments or charges incurred with respect to or relating to any time period prior to the date this Lease is executed by Landlord, and such franchise, license and permits as may arise from Tenant's use of the Premises, and any rent tax or charge payable by Tenant with respect to any rent paid to Tenant by any subtenant, licensee or concessionaire of Tenant. Notwithstanding anything contained hereinabove to the contrary, the term "Impositions" shall not include, and Tenant shall have no liability for, any income, profits, rent or revenue tax, assessment, or charge imposed upon the Base Rent or additional rent received by Landlord under this Lease, by any municipality, county, state, the United States of America or any other governmental body and nothing contained in this Lease shall require Tenant to pay any local, county, municipal, state or federal income, franchise, corporate, estate, inheritance, succession, capital levy, business or transfer tax of Landlord, or any local, county, municipal, state or federal income, profits, gross receipts, sales or renewal tax or charge upon the rent or other charges payable by Tenant under this Lease; provided, however, that if at any time during the Term of this Lease, the present method of taxation or assessment shall be so changed that the whole or any part of the taxes, assessments,

levies, impositions, or charges now levied, assessed, or imposed on real estate and the improvements thereon shall be discontinued, and as a substitute therefor, taxes, assessments, revenues, impositions, or charges shall be levied, assessed, or imposed wholly or partially as a capital levy or otherwise on the rents received from said real estate or the rents reserved herein or any part thereof, then such substitute taxes, assessments, levies, impositions, or charges, to the extent so levied, assessed, or imposed in substitution, shall be deemed to be included within the term "Impositions" to the extent that such substitute tax would be payable if the Premises were the only property of Landlord subject to such tax.

(b) Payment of Impositions. As additional rent, Tenant shall pay or cause to be paid, as and when the same shall become due, all Impositions due and payable with respect to the Term of this Lease; provided, however, Landlord hereby agrees to pay to Tenant one-half (1/2) of ad valorem taxes on the Land during the Construction Term, except that all Impositions for the fiscal year or tax year of the entity imposing such Impositions in which this Lease begins as well as during the year in which this Lease expires shall be prorated so that Landlord and Tenant shall each pay its proportionate share of said Impositions. If the exact amount of Impositions for such year are not then determined, then the most current amounts shall be used and any underpayment or overpayment shall be adjusted between Landlord and Tenant when the final amount is established, even if after the termination of this Lease. Tenant shall pay all such Impositions to the entity charged with the collection thereof not less than fifteen (15) days before the same shall become delinquent. Tenant agrees to indemnify and hold harmless Landlord from those Impositions payable by Tenant. Landlord agrees to cause the Premises to be taxed as a separate tax parcel, separately from any other property owned by Landlord, and to cause all notices, invoices and communications (including renderings) regarding Impositions on the Premises to be sent directly to Tenant. Notwithstanding the foregoing, Tenant shall have the right in good faith at its own sole cost and expense (in its own name or in the name of Landlord, or both, as Tenant may determine appropriate) to contest any such Impositions and shall be obligated to pay the contested amount only if and when finally determined to be due. Should Tenant elect to contest any such Impositions, Tenant agrees to bond around, escrow funds, or take such other action, as may be necessary to prevent the foreclosure of any lien against, or the forced sale of, the Premises during the pendency of such contest. So long as The Woodlands Corporation is the Landlord hereunder, Landlord may render the Premises for tax evaluation

purposes with the intent to maintain as low of an appraisal as possible.

(c) Payment by Landlord. Subject to the right of Tenant to contest Impositions, as provided for in of this Lease, Landlord may at any time that the payment of any Impositions which Tenant is obligated to pay under this provision of this Lease remains past due, give written notice to Tenant of its default, specifying the same, and if Tenant continues to fail to pay such Impositions or to contest the same in good faith, then at any time after ten (10) days from such written notice, Landlord may, in its sole discretion, pay the items specified in the notice, and Tenant covenants thereupon, on demand, to reimburse and pay to Landlord as additional rent due hereunder any amount so paid or expended in the payment of the items specified in the notice.

(d) Bills and Receipts. Any invoice or bill from the appropriate official showing nonpayment of an Imposition past its due date shall be evidence that such Imposition is due and unpaid at the time of the making or issuance of such invoice or bill. Tenant shall furnish to Landlord within thirty (30) days after the date when any Imposition would otherwise be past due, official receipts of the appropriate authority, or other evidence reasonably satisfactory to Landlord, evidencing the payment thereof.

11. Net Lease. This Lease shall be deemed and construed to be a "net lease", and Tenant shall pay the Base Rent and additional rent under this Lease free of deductions of any kind and without abatement, deduction or set-off except as specifically permitted in this Lease, and Landlord shall not be liable for compliance with Impositions and applicable laws with respect to the Premises. Landlord shall have no liability or responsibility for the maintenance or repair of the Improvements nor for the safety and security of the Premises.

12. Maintenance and Repairs.

(a) Tenant's Duty to Repair. Tenant, at Tenant's sole cost and expense, at all times during the term of this Lease, agrees to keep and maintain, or cause to be kept and maintained, the Premises and all Improvements which may be erected thereon, in neat and clean condition and in a good state of appearance and repair. All repairs will be conducted in a timely and professional manner with first-class materials in compliance with paragraph 8 hereinabove and paragraph 15 hereinbelow.

(b) Landlord's Right to Repair. In the event Landlord determines, through an inspection made pursuant to paragraph 42 hereinbelow, that Tenant is not in compliance with

the preceding paragraph hereinabove, Landlord may, at its option following the occurrence of an Event of Default by Tenant with respect thereto, enter upon the Premises and perform such work as may be reasonably necessary to correct any noncompliance, and Tenant shall be and become liable to immediately reimburse Landlord for all reasonable costs incurred in performing such work as additional rent hereunder.

13. Payment of Utility Bills. Tenant will pay directly to the appropriate utility company or governmental agency, when due, all bills for gas, water, sanitary sewer, electricity, telephone and other public or private utilities used by Tenant including connection fees. Tenant shall cause all such utilities to be separately metered with respect to the Premises.

14. Compliance With Laws and Covenants.

(a) Compliance With Laws. Tenant (and Landlord, to the extent Landlord constructs the Alternate Accessway) shall promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state, and municipal governments, including all road utility districts and municipal utility districts, departments, commissions, boards and officers thereof, or any other body exercising similar functions, which now or hereafter may be applicable to the Premises, the Improvements or to the use or manner of use of the Premises or the Improvements, including but not limited to, all environmental laws and the Americans with Disabilities Act.

(b) Subject to Permitted Encumbrances. Tenant acknowledges that its leasehold interest in the Premises herein granted is subject to all covenants, easements, restrictions and instruments of record affecting the Premises or the Improvements and described on Exhibit "B" attached hereto, including but not limited to, the Declaration of Covenants and Restrictions of The Woodlands Commercial Owners Association and the Declaration and any body, association, board or other entity created pursuant thereto and Tenant agrees to be bound thereby.

15. Mechanics' Liens. Landlord and Tenant covenant to each other that they will not permit any lien to be filed against the Premises as a result of nonpayment for, or disputes with respect to, labor or materials furnished to the Premises for or on behalf of Tenant, Landlord or any party claiming by, through, or under Tenant or Landlord, nor shall either party permit any judgment, lien or attachment to lie, as applicable, against the Premises. Should any lien of any nature, including but not limited to the foregoing, be filed against the Premises the party on account of whose actions such lien has been filed shall, within thirty (30) days after receipt of

written notice of such lien, cause said lien to be removed, or otherwise protected against execution during good faith contest, by substitution of collateral, posting a bond therefor, escrowing of adequate funds to cover the claim and related transaction costs or such other method as may be permissible under applicable title insurance regulations and reasonably acceptable to the other party hereto. If Tenant fails to cause such lien to be removed or protected against within the time period set forth above, Landlord may discharge the same and such amount paid by Landlord shall become additional rent hereunder and shall immediately be due and payable to Landlord.

Nothing in this Agreement shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied by inference or otherwise, to any contractor, subcontractor, laborer, or materialman for the performance of any labor or the furnishing of any materials for the construction of the Improvements or for alteration to, or repair of the Improvements or any other structure erected on the Premises or any part thereof, nor as giving Tenant right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanics' lien against Landlord interest in the Premises.

16. Insurance.

(a) Property Damage. During the Construction Term, Tenant shall keep or require its general contractor to keep, in full force and effect, a policy of all risk builder's risk insurance covering loss or damage to the Improvements for the full replacement value of all such construction. During the Main Term and all Option Periods, Tenant shall keep in full force and effect all risk property insurance coverage containing replacement cost, with a commercially reasonable deductible, for which Tenant shall be fully responsible. Tenant may deduct costs of excavation footing and foundations when determining the insurable value. Landlord and Landlord's first lien "Mortgagee" (as defined in paragraph 24 below), shall be named in such policy or policies as additional insureds as their respective interests may appear.

(b) Liability Insurance. During the Term, Tenant shall keep in full force, a policy of commercial general liability insurance with bodily injury and property damage insurance with respect to the Premises and business operated by Tenant, which shall name Landlord and Landlord's first Mortgagee as additional insureds as their respective interests may appear. The limits of such commercial general liability policy shall be not less than

\$5,000,000.00 combined single limit for bodily injury and property damage, with a commercially reasonable deductible.

(c) Workers' Compensation Insurance. To the extent required by law, Landlord and Tenant, and Landlord to the extent Landlord constructs the Alternate Accessway or otherwise performs any activities on the Land as permitted under this Lease, shall maintain workers' compensation insurance in statutory limits covering their respective employees, or maintain such alternate coverages or arrangements as legally permissible and Employers Liability Coverage with limits of not less than \$1,000,000.00 for any one accident.

(d) Self-Insurance. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to self-insure against any of the risks or portions thereof set forth in subparagraphs (a) and (b) (and to the extent then permitted by law, (c)) above, provided Tenant is then occupying the Premises and has a reported net worth, as of the end of Tenant's most recent quarterly reporting period, of not less than One Hundred Million Dollars (\$100,000,000), as computed in accordance with generally accepted accounting principles consistently applied, as determinable from Tenant's public disclosures and/or regularly maintained corporate balance sheets which are generally available to shareholders (no right of Landlord to audit or conduct independent investigations being implied by this provision).

(e) Policy Provisions. All policies of insurance (other than self-insurance) enumerated above shall be provided by insurance carriers with a Best rating of not less than A(-)VIII or such other carriers mutually agreeable to Landlord and Tenant. Any insurance coverage enumerated above may be effected by a blanket policy or policies of insurance or under so-called "all risk" or "multi-peril" insurance policies, provided that the total amount of insurance available with respect to the Building and Tenant's liability hereunder shall be at least the equivalent of separate policies in the amounts herein required, and provided further that in other respects any such policy or policies shall comply with the provisions of this paragraph 16. Landlord shall not be entitled to self-insure against any of the risks recited herein, except the amount of any commercially reasonable deductible shall be deemed to be self-insurance. An increased coverage or "umbrella" policy may be provided and utilized by either party to increase the coverage provided by individual or blanket policies in lower amounts, and the aggregate coverage provided by all such policies with respect to the Building and Tenant's or Landlord's liability hereunder shall be satisfactory provided that such policies otherwise comply with the

provisions of this paragraph 16.

(f) Evidence of Insurance. Subject to Tenant's right to self-insure hereunder, Tenant shall cause to be issued to Landlord appropriate certificates of insurance evidencing compliance with the applicable covenants of this paragraph 16. Each such certificate shall provide that no expiration, cancellation or material change in the insurance evidenced thereby shall be effective unless thirty (30) days' unconditional notice of such expiration, cancellation or material change shall have been given to the certificate-holder (and any Mortgagee, if applicable). Such certificates shall be issued on an annual basis thereafter or prior to the anniversary date of Tenant's insurance program.

17. Indemnities. Except if arising from the negligent or willful acts of Landlord or its agents or employees, Tenant hereby agrees to indemnify, defend and hold Landlord harmless from all claims, costs, liability, damage or expense, including attorneys' fees, for any death, damage or injury to persons or property occurring on the Premises as a result of Tenant's acts or omissions relative to the Premises or resulting from any breach by Tenant of its obligations hereunder.

Except if arising from the negligent or willful acts of Tenant or its agents or employees, Landlord agrees to indemnify, defend and hold Tenant harmless from any and all claims, costs, liability, damage or expense, including attorneys' fees, for any death, damage or injury to persons or property occurring on the Premises as a result of Landlord's acts or omissions relative to the Premises or resulting from any breach by Landlord of its obligations hereunder.

18. Casualty.

(a) No Obligation to Rebuild. In the event the Improvements constructed on the Premises are damaged by fire or any other casualty during the first seventeen (17) years of the Main Term or during the first two (2) years of any exercised Option Period, Tenant shall not be obligated to restore or rebuild same, but shall continue to be obligated to perform Tenant's other obligations hereunder, including but not limited to the obligation to pay Base Rent and additional rent hereunder. Tenant shall be entitled to retain all insurance proceeds, if any, payable with respect to said damage. If Tenant elects to rebuild or restore, Tenant shall comply with the terms of paragraph 8 above, provided, however, Tenant's plans and specifications need not be approved by Landlord to the extent the restoration is performed in accordance with plans and specifications previously approved by Landlord.

(b) During Last Three (3) Years. In the event the Improvements constructed on the Premises are damaged by fire or any other casualty during the last three (3) years of the Main Term or any exercised Option Period, Tenant may, at its option, promptly (i.e., within six (6) months of the casualty event) commence and thereafter pursue to completion the work of repair, reconstruction, or replacement of the damaged or destroyed Improvements (which work shall be performed in a good and workmanlike manner), or may elect to terminate this Lease. In the event Tenant elects to terminate this Lease, and so notifies Landlord, Tenant shall, at the request of Landlord, promptly demolish and raze all or the portion of the Improvements specified by Landlord, fill all excavations on the Premises and otherwise redeliver the Premises to Landlord in the condition the Premises were in as of the date of construction of the initial Improvements. Upon termination of this Lease, the parties shall have no further obligations one to the other hereunder except those accruing prior to such termination, and the Improvements shall thereafter be the property of Landlord.

19. Condemnation.

(a) Definition of Taking and Substantial Taking. For the purpose of this Lease, a "Taking" shall mean any condemnation or exercise of the power of eminent domain by any authority vested with such power and any other taking for public use, including a private purchase in lieu of condemnation by an authority vested with the power of eminent domain; the "Date of Taking" shall mean the earlier of the date upon which title to the Premises or any portion thereof so taken is vested in the condemning authority or the date upon which possession of or access to the Premises or any portion thereof is taken by the condemning authority; and "Substantially All of the Premises" shall mean so much of the Improvements or Alternate Accessway or, when taken, leaves the untaken portion unsuitable, in Tenant's reasonable opinion, for the continued feasible and economic operation of the Premises by Tenant for the same purposes as immediately prior to such Taking or as contemplated herein

(b) Tenant's Rights Upon Taking of Substantially All the Premises. In the event of a Taking of Substantially All of the Premises, Tenant, at its option upon thirty (30) days' written notice to Landlord, which shall be given no later than sixty (60) days following the Taking, shall have the right to terminate this Lease. All Base Rent and other sums payable by Tenant hereunder shall be apportioned and paid through and including the Date of Taking, and neither Landlord nor Tenant shall have any rights in any compensation or damages payable to

the other in connection with such Taking.

(c) Tenant's Rights Upon Less Than Substantial Taking. In the event of a Taking of less than Substantially All of the Premises, Base Rent and other charges shall be reduced fairly and equitably in accordance with the portion condemned or taken, effective as of the Date of Taking, and Tenant shall make all necessary restorations to the Improvements so that the portions of the Improvements not taken constitute a complete architectural unit, provided that the cost thereof to Tenant shall not exceed the proceeds of Tenant's condemnation award (to the extent that such relates to the Improvements and not to Tenant's personal property, intangibles or out-of-pocket expenses unrelated thereto) and the portion of Landlord's award allocable to the Improvements, which Landlord shall make available to Tenant for such restoration. If the Taking occurs within the last two (2) years of the Main Term or of any exercised Option Period and has a material impact on Tenant's ability to conduct business as reasonably determined by Tenant, this Lease shall terminate at Tenant's option. Upon termination of this Lease, the parties shall have no further obligations one to the other hereunder except those accruing prior to such termination, and the Improvements (other than Removable Trade Fixtures) shall thereafter be the property of Landlord.

(d) Landlord's Obligations Upon Any Taking. In the event of any Taking following which the Lease continues in effect, Landlord shall make or cause to be made all necessary restorations to all portions of the Alternate Accessway (if previously existing or necessary as a result of the Taking) such that it serves the function intended.

(e) Rights Upon Temporary Taking. In the event of a Taking of the Premises, the portion of the Ring Road or Access Roads adjacent to the Premises or any portion thereof, for temporary use (specifically one not exceeding 60 days in duration), without the taking of the fee simple title thereto, this Lease shall remain in full force and effect. All awards, damages, compensation and proceeds payable by the condemnor by reason of such temporary Taking relating to the Premises or reasonably attributable to the Premises, for periods prior to the expiration of the Lease shall be payable to Tenant. All such awards, damages, compensation and proceeds for periods after the expiration of the Lease shall be payable to Landlord. Anything contained herein to the contrary notwithstanding, a temporary Taking for any period in excess of sixty (60) days may, at Tenant's option, be deemed a permanent Taking and shall be governed by (b), (c) and (d) above, as applicable.

(f) Taking of the Monument Signs. In the event of a Taking, whether permanent or temporary, of any monument sign (as contemplated by paragraph 9) on which Tenant has installed identification panels, Landlord shall provide a substitute site therefor on the Land reasonably acceptable to Tenant, with adequate electrical power, located so as to be visible to vehicular traffic or roadways adjacent to the Land and/or at entrances to the Premises.

(g) Tenant's Right Upon Condemnation. In the event of a Taking described in subparagraph (b) or (c) above, Tenant shall be entitled to claim compensation from the condemning authority for the value of its leasehold interest in the Premises, its unamortized leasehold improvements paid for by Tenant, relocation expenses, loss of business, taking of Tenant's personal property, and any other items to which Tenant is entitled under applicable law. All compensation awarded for the taking of the Land shall be the property of Landlord. Additionally, in the event of a Taking following which this Lease remains in effect, Tenant may move the location of the curbcuts allowing access from the Premises to the Ring Road, with the prior approval of all applicable governmental authorities and in compliance with the terms of those documents described in Exhibit "B" attached hereto.

20. Assignment and Subletting.

No portion of the leasehold estate created hereby shall be sold, transferred, assigned, subleased or conveyed in any manner (other than concessions or licenses directly related to the operation of the remainder of the business conducted within the Premises, which concessions or licenses shall not occupy more than forty percent (40%) of the Building and shall be the same as those operating within a majority of Tenant's other stores in the Houston area) by Tenant without the prior, written consent of Landlord, which consent shall not be unreasonably withheld, conditioned (except as provided below) or delayed, and any attempt by Tenant to sell, transfer, assign or convey its leasehold estate or any interest therein without the prior, written consent of Landlord shall be null and void. It is understood and agreed that Landlord's consent shall not be withheld if the proposed assignee or tenant has (i) a net worth equal to or greater than Five Million Dollars (\$5,000,000.00), (ii) a proven history of operating a retail business in a manner consistent with retailers in the surrounding area, and (iii) assumed in writing the obligations of Tenant hereunder. Landlord acknowledges and agrees that it shall be unreasonable for Landlord to withhold its consent to any transfer hereunder for the purpose of obtaining a material amendment or modification to the terms of this Lease. Notwithstanding

anything contained herein to the contrary, transfers to subsidiaries, affiliates, or related parties over which Tenant has a controlling interest or which have a controlling interest in Tenant, and transfers involving beneficial ownership interests in Tenant, shall not be deemed a "transfer" hereunder and same may be effected without Landlord's knowledge or consent. No sale, transfer, assignment, sublease or conveyance of all or any portion of Tenant's leasehold estate shall relieve Tenant, or its successors, of any of Tenant's obligations, covenants, or agreements contained herein, so long as the Lease is unchanged in any respect by Landlord and any assignee or subtenant, except with the prior consent of Tenant, which consent shall not be unreasonably conditioned, withheld or delayed. Tenant's withholding of consent shall be deemed reasonable if the change proposed would increase Tenant's obligations or liabilities under the Lease or restrict Tenant's ability to assign or sublease any portion or all of the Lease.

21. Use.

(a) Tenant may maintain, use and operate the Premises as a retail store for (i) the sale of consumer, office and automotive electronics products (which include, but shall not be limited to, televisions, stereos, speakers and video recorders and players), computer hardware and software, entertainment software and entertainment media (which include, but shall not be limited to, records, game cartridges, video tapes, cassettes and compact discs), cellular telephones, household appliances (which include, but shall not be limited to, refrigerators, freezers, stoves, microwave ovens, vacuum cleaners and dishwashers) and related goods and the sale and installation of motor vehicle audio, stereo and telephone systems (all of such items being herein collectively referred to as the "Products"), and (ii) renting, servicing, storage, repairing and warehousing of the Products.

(b) Tenant shall additionally have the right to use the Premises for any other retail use; provided, however, that the Premises shall not be used (i) for any illegal purpose, or (ii) as a primary use, as a grocery store or restaurant, or until September 29, 1999, as a bed, bath or table linens store, or, while Cinemark occupies an Outparcel, as a theatre, or (iii) in violation of any other applicable provision of the "Permitted Encumbrances" contained in Exhibit "B".

(c) Nothing contained in this Lease shall be construed to require Tenant to operate the Premises continuously either for the use first stated or for any other use; however, Landlord may exercise certain rights granted it in paragraph 5 above in the event Tenant ceases

to operate its business in the Premises for more than one hundred fifty (150) consecutive days.

(d) No portion of the Premises shall be used in a manner which causes or produces vibration, sound, heat, electrical or mechanical disturbance or radiation, water or air pollution, dust, atomic or subatomic particle radiation, or the emission of odorous, toxic or non-toxic matters, which are detectible outside the boundaries of the Premises, and which constitute a public or private nuisance.

22. Warranties, Representations, and Covenants.

(a) Landlord represents, warrants and covenants to Tenant that (such representations and warranties being effective as of the date hereof):

(i) Quiet and Peaceful Enjoyment. Landlord and those persons executing this Lease on its behalf have the right and lawful authority to enter into this Lease and perform Landlord's obligations hereunder, and Landlord warrants, represents and covenants that, so long as Tenant is not in default hereunder beyond any applicable cure period, Tenant shall have quiet and peaceful use, enjoyment and occupancy of the Premises.

(ii) Title. At the date of execution of this Lease, Landlord's fee simple interest in the Land is free and clear of any mortgages, deeds, encumbrances, declarations, easements, agreements, leases, tenancies or restrictions, except the Permitted Encumbrances. To the best of Landlord's knowledge, nothing contained in this Lease, including the Permitted Encumbrances, shall prohibit Tenant's right to operate its business in the Premises. Landlord specifically covenants and warrants that no third party has the right to object to Tenant's tenancy hereunder, prohibit the selling, renting, servicing, repairing or storing as inventory of the Products, or, except as set forth in the Permitted Encumbrances, the right to consent to any feature of the Improvements or Tenant's signage. This representation and warranty is a material inducement to the Tenant's execution of this Lease.

(iii) Certificate of Authority. Landlord covenants that it is a duly constituted corporation under the laws of the State of Texas, and that its Vice President who is acting as its signatory in this Lease is duly authorized and empowered to act for and on behalf of the corporation.

(iv) No Litigation. There are no judicial, quasi-judicial, administrative or other orders, injunctions, moratoria or pending proceedings against Landlord or the Land which would preclude or interfere with, the construction contemplated by Tenant hereunder or the occupancy and use of the Premises for the purposes herein contemplated.

(v) Hazardous Substances and Other Conditions. To the best of Landlord's Actual Knowledge (as hereinafter defined), no Hazardous Substances (as hereinafter defined) have been incorporated, used, generated, manufactured, stored or disposed of in, on, or under the Land and there are no claims, litigation, administrative or other proceedings, whether actual or threatened, or judgments or orders relating to the use, generation, manufacture, storage or disposal of any Hazardous Substances in, on, or under the Land. As used in this Lease, the term "Hazardous Substances" shall mean substances defined as "hazardous substances", hazardous materials" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability act of 1980 as amended, 42 U.S.C. Sec. 9601, et. seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et. seq.; and the Resources Conversation and Recovery Act, 42 U.S.C. Sec. 6901, et seq. As used in this Lease, the term "Landlord's Actual Knowledge" shall mean the actual knowledge of the following officers or employees (as applicable) of Landlord: Thomas P. Battle, Senior Vice President - General Counsel, Alexander G. Sutton, III, Vice President - Engineering and Construction, or Fred LeBlanc, Environmental Manager, without making any particular inquiry or study and without any duty to make such inquiry or study. If any claim is ever made against Tenant relating to Hazardous Substances present at, under or on the Premises, which Hazardous Substances are determined to have been present prior to the date of this Lease OR present due to contamination occurring outside the Premises but having migrated to the Premises, Landlord shall promptly remediate and clean-up all such Hazardous Substances to a Standard One, and all costs incurred in connection with such remediation and clean-up, including repair and restoration of the Improvements affected by same, shall be borne by Landlord. Landlord agrees to use all measures in conducting such clean-up and remediation as is necessary to not disturb Tenant's use and occupation of

the Premises, and Tenant's business, as little as possible. In addition to any other remedies available to Tenant in the event Landlord fails to promptly remediate and clean-up the aforementioned contamination after notice and opportunity to cure as set forth in paragraph 34 hereinbelow, Tenant may do so and Landlord hereby agrees to reimburse Tenant for Tenant's costs in doing so. The representation, warranty and obligation of Landlord to reimburse Tenant if Tenant exercises its right to self-help described in this paragraph shall survive the termination or expiration of this Lease. Additionally, in the event the existence of or removal of the Hazardous Substances materially and adversely affects Tenant's business operated in the Premises for seventy-five (75) days or more, Tenant shall have the right to terminate this Lease as Tenant's sole remedy, whereupon Landlord shall pay to Tenant the amount of Tenant's then unamortized costs incurred to the date of termination with respect to constructing, renovating and modifying the Improvements, calculated in the same manner as set forth for termination of this Lease in connection with a recapture of the Premises permitted pursuant to paragraph 5 above, whereupon the parties hereto shall have no further obligations one to the other except for those set forth herein as specifically surviving termination of this Lease and except for sums due and owing to one another prior to termination of the Lease. For purposes of this Lease, a "Standard One" clean-up level shall mean closure/remediation to background to remove and/or decontaminate all waste, waste residues leachate, and contaminated media to background levels unaffected by waste management or industrial activities. Under Standard One, contaminate concentrations in affected environmental media must be reduced to relevant background levels, either by means of media removal or treatment. If the background concentration of a given contaminate is less than the Practical Quantitation Limit ("PQL") for that compound, then the PQL value may be used as the clean-up standard, provided that lower quantitation levels are shown not possible. For purposes of establishing a baseline to determine "background," an uncontaminated parcel of land nearest to the contaminated area shall be tested at the time of discovery of the contamination, and the results thereof shall constitute the applicable baseline for background purposes. Landlord expressly warrants and represents to Tenant that the Land is free and clear of obstructions, foundations, footings, improvements, tenancies and, to the extent set forth above, Hazardous Substances. Should the Land not